

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Case Type: Contract

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City of Long Lake,

Court File No. 27-CV-23-9758

The Hon. Laurie J. Miller

Plaintiff,

vs.

City of Orono,

Defendant.

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**DEFENDANT CITY OF ORONO'S MEMORANDUM OF LAW IN  
OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION**

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**INTRODUCTION**

The City of Long Lake ("Long Lake") seeks a preliminary injunction against the City of Orono ("Orono") to enjoin Orono from breaching the parties' Contract for Fire Protection, interfering with the Minnetonka Beach Fire Protection Contract, and interfering with Long Lake's employment relationship with its firefighters. Orono has not breached the 2002 Contract for Fire Protection or unlawfully interfered with contractual relationships, and fully intends to fulfill its obligations under the contract. Long Lake's ill-conceived Motion for Preliminary Injunction should be summarily denied.

**STATEMENT OF FACTS**

Prior to 2001, the Long Lake Fire Department was located at 1944 Park Avenue, Long Lake, Minnesota. *Declaration of Adam Edwards*, ¶ 2. In 2001, the Minnesota Department of Transportation condemned the land the fire department was located on

to build a new highway. *Id.* Long Lake found replacement land to build a new Long Lake Fire Station at 340 Willow Drive, Orono, Minnesota (“Fire Station 1”). *Id.* In August 2001, Orono and Long Lake entered into a Contract for Joint Ownership for the fire station that was built (“Fire Station 1”). *Declaration of Charlie Miner, Ex. A: Contract for Joint Ownership.*

Pursuant to the Contract for Joint Ownership, the cities agreed, “Long Lake has the authority to operate the Long Lake Fire Department (“LLFD”) for the mutual benefit of Long Lake, Orono, Medina, as well as other cities ...” *Contract for Joint Ownership.* The Contract further provided “Long Lake shall have the overall responsibility to oversee the operation and maintenance of the land and building upon which the Long Lake Fire Station is to be relocated.” *Id.* Initially, the ownership interests were 60 percent to Orono and 40 percent to Long Lake. *Id.* However, the ownership interests changed on a yearly basis and now, Orono and Long Lake each own 50 percent of Fire Station 1. *Id.*

Shortly after Fire Station 1 was built, Orono and Long Lake entered into an Agreement and Contract for Fire Protection. *Decl. Miner, Ex. B: Contract for Fire Protection.* Pursuant to the contract, the cities of Orono, Long Lake and Medina agreed to share the costs and the services of fire protection provided by the Long Lake Fire Department. *Id. at ¶ 1.* The contract also provided that throughout the duration of the contract, “Long Lake shall furnish all the firefighting services, rescue/medical rescue services, and related fire protection services to the Contracting Cities for the Total Fire Service Area...” *Id. at ¶ 2.*

The agreement requires all three cities to approve the proposed Annual Fire Services Operating Budget. *Contract for Fire Protection ¶ 9.* If all the cities do not approve

the proposed budget, the budget increase will be limited to the average annual General Fund Budget increase of the cities.” *Id.* Each city has the opportunity for final ratification or rejection of the annual budget. *Id.* The agreement also requires that capital expenditures, including major equipment and major maintenance, repair, or rehabilitation to the fire station, must be approved by a minimum of two cities and the combined funding shares of the two cities must be greater than 60%. *Id. at* ¶ 11. “Final approval of capital expenditures occurs as part of the Annual Fire Services Capital Budget approval process.” *Id.* If there is a need for emergency major equipment repair or emergency building repair or any other emergency need, they may be authorized by the Long Lake City Administrator and the Long Lake Fire Chief, or their designees. *Id. at* ¶ 12.

The Contract covered the period January 1, 2002 through December 31, 2020 and would be extended for a period of five years unless terminated pursuant to Section 20 of the Agreement. *Contract for Fire Protection* ¶ 10. None of the parties terminated the contract in 2020 and it was extended for a period of five years, through December 31, 2025. *Decl. Edwards* ¶ 5.

On December 12, 2011, Orono and Long Lake entered into an Addendum to the Contract for Fire Protection because a new fire station (“Fire Station 2”) was built and “the Cities desire[d] to add an addendum to the existing Fire Protection Agreement to reflect the provision of fire services to the Navarre area of Orono ...” *Decl. Miner, Ex. C: Addendum for Fire Protection*. Orono owns 100% of Fire Station 2. Pursuant to that contract, “Long Lake agree[d] to oversee all activities and operations at Fire Station No. 2 under

the same terms and conditions as previously agreed to in the existing Fire Protection Agreement.” *Id.* The intention of the parties was Fire Station 2 was needed in order to provide adequate service to the Navarre area. *Decl. Adams* ¶ 6.

In April 2021, pursuant to the Contract for Fire Protection, Orono served Long Lake with a Notice of Termination to terminate the contract on its expiration date of December 31, 2025. *Decl. Miner, Ex. D: Termination of the Contract for Fire Protection.* Orono also served a Notice of Termination of the Contract for Joint ownership in connection with Fire Station 1. *Decl. Miner, Ex. E: Termination of the Contract for Joint Ownership.* Paragraph 20 of Contract for Fire Protection provided the terms for terminating the Agreement. Relevant here is the following:

This Agreement shall be terminable only as follows: 1. For “Good Cause” by any city that desires to terminate its participation in the Agreement provided that such termination is preceded by a minimum of 36-months notice. “Good Cause” shall mean, but is not limited to, a pattern of inadequate service quality, including inadequate response to call, inadequate training, and inadequate handling of calls; and/or a pattern of budget overruns. 2. For breach of contract. 3. By mutual agreement of all cities covered by the agreement. 4. City of Medina may terminate its participation without cause, subject to a twenty-four month notice of termination. This agreement may be renegotiated or terminated by the cities to enable participation in a fire district or similar organizational arrangement.

*Id. at* ¶ 20.

In September 2022, Orono City Council passed a resolution to establish the Orono Fire Department. In anticipation of starting their own fire department, Orono purchased a ladder truck in October 2022. *Decl. Adams* ¶ 12. Due to COVID-19, the lead times for purchasing and receiving certain equipment necessary for operating a fire department is

anywhere from 18-36 months. *Declaration James Van Eyll* ¶ 15. Due to the longer than usual lead times, it was and is necessary for Orono to purchase the equipment needed to have a fully functional Fire Department by July 1, 2024. Orono offered to provide the vehicle to LLFD for use or until the contract ended. *Decl. Adams* ¶ 12. Orono also coordinated with the LLFD Department Chief on the refurbishment needed so the vehicle would meet LLFD's specifications and needs. *Id.*

Orono also determined it needed a Fire Chief and posted the position. *Decl. Edwards* ¶ 13. There were fifteen applicants and Orono interviewed six in the initial round of interviews and conducted final interviews for four candidates. *Id.* In December 2022, Orono hired applicant James Van Eyll as the Fire Chief. *Decl. Van Eyll* ¶ 3.

Prior to that, Chief Van Eyll had been the Fire Chief for the LLFD for fifteen years. *Decl. Van Eyll at* ¶ 2. During his time as Fire Chief for the LLFD, Chief Van Eyll never restricted any of the firefighters from working for more than one department. *Id. at* ¶ 5. Chief Van Eyll does not plan to restrict any of his future firefighters from working for more than one department as in Orono. *Id. at* ¶ 6.

Chief Van Eyll has a long-time and good working relationship with LLFD's new Fire Chief Mike Heiland. *Decl. Van Eyll* ¶ 7. It is Chief Van Eyll's intention to coordinate with the LLFD for a smooth transition and to continue to have a good working relationship with them. *Id.* ¶ 8. Chief Van Eyll has not undertaken any efforts to undermine the LLFD; rather, he is working to build a first-class Fire Department. *Id.* ¶ 9. Further, Chief Van Eyll plans to provide mutual aid support to LLFD in their services to other cities. *Id.* ¶ 13. No action has been taken by Orono to occupy or utilize Fire Station

2 in contravention of any contract. *Id.* ¶ 14. If Long Lake does not agree to relinquish the use of Fire Station 2 prior to the end of the Contract for Fire Protection, the Orono Fire Department will make other arrangements. *Id.* ¶ 15.

On June 12, 2023, Orono City Council adopted Resolution 7374, providing Orono will assume responsibility for the Navarre Fire Service Area beginning no later than July 1, 2024. *Decl. Edwards, Ex. A: Resolution 7374.* They also adopted Resolution 7375, providing Orono will have a fully functioning fire department providing service to the current Navarre service area no later than July 1, 2024. *Id., Ex. B: Resolution 7375.*

Following the City Council meeting, Orono City Administrator Adam Edwards served Medina and Long Lake with a Notice of Adjustment to alter the City Fire Service Area pursuant to the Agreement and Contract for Fire Protection. *Decl. Adams, Ex. C: Notice of Adjustment.* The notice provided Orono's intent to reduce its City Fire Service Area for the contract year beginning July 1, 2024. *Id.* On July 1, 2024, the Fire Service Area will no longer include the Navarre service area. *Id.* Section 21 of the Contract for Fire Protection provides a provision allowing any city to adjust their service area:

During the period of this agreement a Contracting City may request that its City Fire Service Area be reduced in size. Such a request must be made prior to July 1 of the Contract Year to allow time for preparing the Annual Fire Services Budget for the succeeding Contract Year.

*Contract for Fire Protection.*

Both of the parties have attempted to negotiate the transition of Orono leaving the Contract for Fire Protection and have been unsuccessful. Unfortunately, Long Lake has resorted to this spurious litigation, which has no basis in fact or law.

## ARGUMENT

### **I. PLAINTIFF HAS NOT CARRIED ITS BURDEN TO DEMONSTRATE IT IS ENTITLED TO A PRELIMINARY INJUNCTION.**

The grant of an injunction is an extraordinary remedy. *Morse v. City of Waterville*, 458 N.W.2d 728, 729 (Minn. Ct. App. 1990). “The party seeking the injunction must demonstrate that there is an inadequate legal remedy and that the injunction is necessary to prevent great and irreparable injury.” *U.S. Bank Nat. Ass’n v. Angeion Corp*, 615 N.W.2d 425, 434 (Minn. Ct. App. 2000) (citing *Cherne Indus., Inc. v. Grounds & Assocs., Inc.*, 278 N.W.2d 81, 91 (Minn. 1979); and, *Dahlberg Bros., Inc. v. Ford Motor Co.*, 137 N.W.2d 314, 321 (Minn. 1965)).

In determining the propriety of a preliminary injunction, the Court considers the following factors:

- (1) The nature and background of the relationship between the parties preexisting the dispute giving rise to the request for relief.
- (2) The harm to be suffered by the plaintiff if the temporary restraint is denied as compared to that inflicted on the defendant if the injunction issues pending trial.
- (3) The likelihood that one party or the other will prevail on the merits when the fact situation is viewed in light of established precedents fixing the limits of equitable relief.
- (4) The aspects of the fact situation, if any, which permit or require consideration of public policy expressed in the statutes, State and Federal.
- (5) The administrative burdens involved in judicial supervision and enforcement of the temporary decree.

*Dahlberg*, 137 N.W.2d at 321-22. The burden of proof rests solely on the complaining party to establish the material allegations sufficient to demonstrate an entitlement to relief. *AMF Pinspotters, Inc. v. Harkins Bowling, Inc.*, 110 N.W.2d 348, 351 (Minn. 1961).

#### **A. Relationship of the Parties.**

The purpose of a preliminary injunction is to preserve the status quo until judgment. *Pickerign v. Pasco Mktg., Inc.*, 228 N.W.2d 562, 565 (Minn. 1975). This factor typically looks at whether a pre-existing relationship such as a contractual or employment relationship will be impacted by the injunction. *See e.g., Metro. Sports Facilities Comm'n v. Minnesota Twins P'ship*, 638 N.W.2d 214, 221 (Minn. Ct. App. 2002); *Softchoice, Inc. v. Schmidt*, 763 N.W.2d 660, 668 (Minn. Ct. App. 2009). This factor favors injunctive relief when the parties had a satisfactory or long-standing relationship prior to the dispute. *Dahlberg*, 137 N.W.2d at 322.

Although Long Lake and the City of Orono have a long-standing relationship as neighboring cities and sharing Fire Fighting Services since 2001, an injunction to preserve the status quo is unnecessary and inappropriate. The Orono City Attorney assured Long Lake's litigation counsel Orono plans to fulfill its obligations under the Contract for Fire Protection until its termination. *Declaration of Christopher H. Yetka, Ex. B: Soren Mattick Letter*. Moreover, Chief Van Eyll has confirmed he will continue to work collaboratively and in good faith with LLFD's Fire Chief. *Decl. Van Eyll* ¶¶ 7, 8. Chief Van Eyll has not taken any efforts to undermine the LLFD and no action has been taken by Orono to occupy or utilize Fire Station 2 in contravention of any contract. *Id.* ¶¶ 9, 14. Simply stated,



issuing a preliminary injunction would do more harm for the parties' relationship than good, particularly where there has been absolutely no breach of any contract.

This factor weighs in favor of denying injunctive relief.

#### **B. The Comparative Harm.**

"The party seeking an injunction must establish that the legal remedy is inadequate and the injunction is necessary to prevent irreparable harm." *Unlimited Horizon Mkt., Inc. v. Precision Hub, Inc.*, 533 N.W.2d 63, 66 (Minn. Ct. App. 1995).

The key word in this consideration is *irreparable*. Mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough. The possibility that adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm.

*Miller v. Foley*, 317 N.W.2d 710, 713 (Minn. 1982) (internal quotations omitted, emphasis in the original). Failure to establish irreparable harm precludes the need for further analysis and warrants denial of injunctive relief. *Morse*, 458 N.W.2d at 729. While Long Lake must establish irreparable harm to warrant the relief sought, Orono need only show substantial harm to bar the requested injunction. See *Yager v. Thompson*, 352 N.W.2d 71, 75 (Minn. Ct. App. 1984) (citing *Vernon J. Rockler and Co. v. Minneapolis Shareholders Co.*, 425 F. Supp. 145, 151 (D. Minn. 1977)).

There is no harm present, let alone irreparable harm. Nothing has happened to the operation and use of Fire Stations 1 or 2. *Decl. Van Eyll* ¶ 14. Nothing. There is no imminent "invasion" or unilateral "take over" of Fire Station 2 planned. Fire Station 2 was built for the sole purpose to service the citizens of Orono and the Station 2 call Area.

*Resolution 7374*. Since Orono is assuming responsibility for the Navarre Service Area, it is logical for Fire Station 2 to be relinquished to Orono. When Long Lake and Orono entered into the Addendum for Fire Station 2, “the Cities desire to add an addendum to the existing Fire Protection Agreement to reflect the provision of fire services to the Navarre area of Orono ...” *Addendum to Contract for Fire Protection*. As Chief Van Eyll explained, “[T]he Long Lake Fire Department does not need to utilize Fire Station 2 once Orono is servicing the Navarre area.” *Decl. Van Eyll* ¶ 11. Nonetheless, no action has been taken by Orono to occupy or utilize Fire Station 2 in contravention of any contract. *Id.* ¶ 14. Chief Van Eyll’s Declaration should dispel any suggestion by Long Lake that Orono will unilaterally take over Fire Station 2:

If Long Lake does not agree to relinquish the use of Fire Station 2 prior to the end of the term of the Contract for Fire Protection, the Orono Fire Department will make other arrangements.

*Decl. Van Eyll* ¶ 15. As noted earlier, Orono intends to fulfill its obligations under the current contract. *Soren Mattick Letter*. Further, according to LLFD’s prior Chief, LLFD would be able to continue to provide adequate services under their obligations to the Contract for Fire Protection even without Fire Station 2. *Decl. Van Eyll* ¶ 11. Chief Van Eyll has also confirmed he has a good working relationship with LLFD and will provide mutual aid if requested by LLFD. *Decl. Van Eyll* ¶ 13.

The harm Orono will face, on the other hand, could be substantial. If Orono is restricted from using Fire Station 2, Orono’s police officers will not be able to use it for administrative reasons. *Id.* ¶ 21. Further, if also restricted from using Fire Station 1 altogether, Orono will lose a designated Polling Place. In addition, it is a facility its police

officers often use for routine administrative purposes. *Id.* ¶ 21. Further, Long Lake is requesting this Court to issue a preliminary injunction to enjoin Orono from interfering with Long Lake’s employment relationship with its firefighters. Orono is in their right to post job openings and hire whoever is qualified. If Orono is expected to halt their preparation and planning for their own fire department, they will not be able to be fully functional by July 1, 2024 to service the Navarre area. Contrary to Long Lake’s position, building a fire department from the ground up cannot be done overnight. *Decl. Van Eyll* ¶ 18.

Therefore, the harm factor weighs in favor of denying injunctive relief.

### **C. Orono Prevails on the Merits.**

The most important factor is a party’s likelihood of prevailing on the merits. *Softchoice, Inc. v. Schmidt*, 763 N.W.2d 660, 666 (Minn. Ct. App. 2009). If a plaintiff can show no likelihood of prevailing on the merits, the district court errs as a matter of law in granting a preliminary injunction. *Sanborn Mfg. Co. v. Currie*, 500 N.W.2d 161, 165 (Minn. Ct. App. 1993). Long Lake cannot show a likelihood of prevailing on the merits because Orono has not breached the Contract for Fire Protection and intends to comply with its obligations.

#### **1. Long Lake is Not Likely to Prevail on the Merits of its Breach of Contract Claim.**

To prevail on a breach-of-contract claim, Long Lake must establish “(1) the formation of a contract, (2) the performance of conditions precedent by the plaintiff, and (3) the breach of the contract by the defendant.” *Thomas B. Olson & Assocs., P.A. v. Leffert*,

*Jay & Polglaze, P.A.*, 756 N.W.2d 907, 918 (Minn. Ct. App. 2008), *rev. denied* (Minn. Jan. 20, 2009). Orono does not dispute there is a valid and enforceable contract between Orono, Medina and Long Lake for fire protection. Fatal to Long Lake's claim, however, Orono has not breached the contract.

All of Long Lake's claims for breach of contract are that Orono has committed anticipatory breach of the fire service agreement. An anticipatory repudiation occurs when there is "an unconditional repudiation of a contract, either by words or acts, which is communicated to the other party prior to the time fixed by the contract for his performance." *In re Haugen*, 278 N.W.2d 75, 79 n. 6 (Minn. 1979). "An anticipatory breach by repudiation occurs where a vendor cannot possibly perform and where by its conduct it demonstrates an unequivocal intent not to perform." *State ex rel. Friends of the Riverfront v. City of Minneapolis*, 751 N.W.2d 586, 593 (Minn. Ct. App. 2008) (quotation omitted) (holding that where it was still possible for a party to perform a contract, the other party could not establish anticipatory breach), *rev. denied* (Minn. Sept. 23, 2008). The adversarial party may treat the renouncement as a breach of contract and bring an action for damages. *Space Ctr., Inc. v. 451 Corp.*, 298 N.W.2d 443, 450 (Minn. 1980).

Orono has affirmed the contract, not repudiated it. Long Lake first asserts Orono has breached the contract by hindering Long Lake's ability to perform its obligations to provide fire protection services and to manage and control the Fire Stations.

As to the Fire Stations, Orono has approached Long Lake and requested the roles transition so that Orono has control over the Fire Stations. However, Long Lake has steadfastly refused, regardless of the logic of the proposal. Nonetheless, Orono intends

on fulfilling its current obligations under the Contract for Fire Protection, regardless of the unreasonable and litigious approach endorsed by Long Lake. *Sorren Mattick Letter*. Chief Van Eyll has unequivocally stated it is his intention to coordinate with the LLFD for a smooth transition and no action has been taken by Orono to occupy or utilize the fire stations in contravention with other neighboring fire departments. *Decl. Van Eyll* ¶¶ 8,14. Further, if Long Lake does not agree to relinquish the use of Fire Station 2 prior to the end of the term of the Contract for Fire Protection, the Orono Fire Department will make other arrangements. *Id.* ¶ 15. Long Lake would not be hindered in providing fire protection services because Chief Van Eyll has adamantly stated they could continue providing said services without the use of Fire Station 2. *Id.* ¶ 11.

Long Lake's next assertions Orono is hindering their ability to perform their obligations under the Contract for Fire Protection are absurd. First, Long Lake asserts a breach of contract claim because Orono hired Long Lake's Fire Chief, James Van Eyll in December 2022. However, Orono had already served its notice of intent to not renew the Contract for Fire Protection in April 2021. Without Long Lake providing fire services to Orono, Orono necessarily needs to set up its own fire department and required Orono to hire a Fire Chief. Orono hired Chief Van Eyll through an open and public process. After Orono posted the job, fifteen people applied. *Decl. Edwards* ¶ 13. Orono interviewed six in the initial round of interviews and conducted final interviews with four candidates. *Id.* Ultimately, they chose to hire Chief Van Eyll. There was no non-compete agreement or other duty in the Contract for Fire Protection and "merely offering a job to the employee of another generally does not constitute improper interference with another's contract."

*Viking Produce, Inc. v. Northstar Produce, LLC*, No. A11-635, 2012 WL171391 at \*3 (Minn. Ct. App. Jan. 23. 2012).

Next, Long Lake asserts Orono's purchase of the ladder truck is a breach of the contract. Orono purchased the truck because they are setting up their own department. Long Lake could have purchased it had they wanted to, but they chose not to. Long Lake alleges that Orono does not need the truck yet, proving Orono's intent to breach the contract. However, due to COVID-19, the lead times for fire equipment is 18-24 months. Orono has not breached the contract by purchasing a truck in advance to make sure they have the equipment they need to run their own fire department. Orono offered to provide the vehicle to LLFD for use or until the contract ended. *Decl. Edwards* ¶ 12. Orono also coordinated with the LLFD Chief on the refurbishment needed so the vehicle would meet LLFD's specifications and needs. *Id.*

Long Lake also claims that Orono has stated it will refuse to approve future capital budgets. Orono did reject the Capital Improvement Plan submitted in 2022. *Decl. Edwards* ¶ 18. However, pursuant to the contract, Orono is not under any obligation to approve proposed budgets. *Contract for Fire Protection*. It is the duty of each city to be mindful of the budget and not rubber stamp every Capital Improvement Plan. Orono has made clear it will consider the purchase equipment necessary for Long Lake to fulfill its obligations under the Contract for Fire Protection. *Decl. Edwards* ¶ 19. It would not make sense for Orono to purchase equipment without full ownership when it is currently developing its own fire department.

Long Lake cannot show a likelihood the elements of Long Lake's contract claims are met because Orono's actions do not and have not constituted a breach of the Contract for Fire Protection.

***2. Long Lake is Not Likely to Prevail on the Merits of its Claim for Tortious Interference Claim.***

To prevail on a tortious interference with a contract, Long Lake must prove "(1) the existence of a contract; (2) the alleged wrongdoer's knowledge of the contract; (3) intentional procurement of its breach; (4) without justification; and (5) damages." *Furlev Sales & Assocs., Inc., v. N. Am. Auto. Warehouse, Inc.*, 325 N.W.2d 20, 25 (Minn. 1982).

Orono does not dispute that Long Lake has entered into the Contract for Fire Protection with Orono and Medina. However, Orono has not intentionally procured breach of the Contract for Fire Protection. Purchasing equipment and hiring employees to start their own fire department does not hinder Long Lake's ability to perform its contractual obligations under the existing contract. Further, Orono has not repudiated its obligations under the contract. Orono will continue to follow its obligations until the term has expired on December 31, 2025.

Long Lake also claims Orono is hindering Long Lake's ability to perform services pursuant to its contract with Minnetonka Beach. Orono has no obligation to nor is it a party to that contract. Further, Chief Van Eyll has stated he will provide mutual aid to Minnetonka Beach on behalf of the LLFD. Therefore, Long Lake's ability to perform services to Minnetonka Beach will not be hindered.

Accordingly, Long Lake has not shown a likelihood of success on the merits of its tortious interference with contract claim against Orono.

**D. Public Policy Favors Denial of Plaintiff's Motion.**

Public policy does not support the issuance of a preliminary injunction. Rather, it favors denying the injunction. The Court must consider “the aspects of a fact situation, if any, which permit or require consideration of public policy expressed by statutes, state and federal.” *Dahlberg Bros., Inc.*, 137 N.W.2d at 321-22. There is no public interest in prohibiting a city from determining whether or not they want to develop their own fire department or contract services from a neighboring city.

Minn. Stat. § 412.221 Subd. 17 provides: “[t]he council shall have power to establish a fire department, appoint its officers and members and prescribe their duties, and provide fire apparatus. It shall have power to adopt such ordinances as are reasonable and expedient to prevent, control or extinguish fires.” Long Lake’s request for a preliminary injunction is akin to Long Lake prohibiting Orono City Council from establishing their own fire department which is against public interests.

Further, on May 16, 2023, the Minnesota Legislature passed a bill that now bans non-competition agreements between employers and employees, as well as independent contractors. Minn. Stat. § 181.988. The law does not go into effect until July 1, 2023. However, the new law makes it clear Minnesota disfavors non-compete clauses. Yet, Long Lake’s position is Orono does not have the right to compete with them and provide their own fire protection services or contract with neighboring cities. Additionally, nothing in the Contract for Fire Protection includes any non-compete



clauses nor did any of the firefighters who work for LLFD sign anything including a non-compete clause.

Therefore, public policy weighs in favor of denying the preliminary injunction.

**E. Administrative Burdens.**

The City of Orono acknowledges the administrative burdens involved in judicial supervision and enforcement of a preliminary injunction would not be substantial. This factor is neutral.

When considering all of the *Dahlberg* factors, however, Plaintiff's request for a preliminary injunction should be denied.

**CONCLUSION**

For the foregoing reasons, Defendant respectfully requests the Court deny Plaintiff's Motion for a Preliminary Injunction.

Dated: June 29, 2023

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